

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/004981

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language _____ which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-33 _____ as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☒ the claims:
- nos. 2-18, 20-35, 37-41 _____ as originally filed/furnished
- nos.* _____ as amended (together with any statement) under Article 19
- nos.* 1, 19, 36 _____ received by this Authority on 07.03.2005 with letter of 07.03.2005
- nos.* _____ received by this Authority on _____
- ☒ the drawings:
- sheets 1/6-6/6 _____ as originally filed/furnished
- sheets* _____ received by this Authority on _____
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

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PCT/EP2004/004981

Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application

☒ claims Nos. 1-35

because:

☐ the said international application, or the said claims Nos. _____
relate to the following subject matter which does not require an international preliminary examination (*specify*):

☒ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. 1-35
are so unclear that no meaningful opinion could be formed (*specify*):

☐ the claims, or said claims Nos. _____ are so inadequately supported
by the description that no meaningful opinion could be formed.

☐ no international search report has been established for said claims Nos. _____

☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:

the written form

☐ has not been furnished

☐ does not comply with the standard

the computer readable form

☐ has not been furnished

☐ does not comply with the standard

☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-bis of the Administrative Instructions.

☐ See Supplemental Box for further details.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

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PCT/EP2004/004981

Box No. IV Lack of unity of invention

1. ☒ In response to the invitation to restrict or pay additional fees the applicant has:
 - ☒ restricted the claims.
 - ☐ paid additional fees.
 - ☐ paid additional fees under protest.
 - ☐ neither restricted the claims nor paid additional fees.
2. ☒ This Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is:
 - ☐ complied with.
 - ☒ not complied with for the following reasons:

See Supplemental Box.

4. Consequently, this report has been established in respect of the following parts of the international application:

☒ all parts.

☐ the parts relating to claims Nos. _____

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

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PCT/EP2004/004981

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	36-41	YES
	Claims		NO
Inventive step (IS)	Claims	36-41	YES
	Claims		NO
Industrial applicability (IA)	Claims	36-41	YES
	Claims		NO

2. Citations and explanations (Rule 70.7)

See Supplemental Box.

Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of:

Box IV and Boxes III and V

Box IV:

The different (groups of) inventions are as follows:

Claims 1-35:

a fluidic microsystem with a holding arrangement, with no details concerning the way in which the holding device functions or the use thereof.

Claims 36-41:

an arrangement of electrodes for holding suspended particles in a channel.

For the following reasons, the above (groups of) inventions are not so linked as to form a single general inventive concept (PCT Rule 13.1).

The present application fails *a priori* to satisfy the requirement of unity of invention since two inventions are defined, said inventions not being linked, either by the essential features in combination or by the statement of the problem to be solved (problem-solution-approach), in such a way that they contain a single general inventive concept.

Supplemental Box

Moreover, among the different solutions in the different groups of inventions, there is no technical relationship that might define a single inventive concept.

In consequence, the present application fails to meet the requirement of PCT Rule 13.1.

Boxes III and V:

1. The present report makes reference to the following documents:

D1: US 6 432 630 B1 (BLANKENSTEIN GERT)
13 August 2002 (2002-08-13)

D2: US 2002/088712 A1 (MILES ROBIN R)
11 July 2002 (2002-07-11).

- 2.1 Claims 1 and 19 fail to comply with the requirements of PCT Article 6 since the subject matter for which protection is claimed is not clearly defined. Said claims attempt to define their subject matter in terms of the result which is to be achieved (contactless fixing). In the present case, it is not admissible to draft the claims in this manner since it would appear that it is feasible to describe the subject matter of the application in more specific terms, that is to say to state the measures whereby the effect can be achieved. Claim 36 discloses an arrangement of

/...

Supplemental Box

electrodes whereby contactless fixing is made possible. By combining the subject matter of claims 1 and 19 with that of claim 36 both the objection in respect of clarity (PCT Article 6) and also that in respect of unity of invention (PCT Rule 13.1) would be overcome.

- 2.2 Furthermore, the subject matter of claims 1 and 19 in combination with that of claim 36 would be considered novel and inventive (PCT Article 33), since the contactless fixing of a particle in a fluidic microsystem cannot be guaranteed in the light of D1 and D2 and the solution to the problem is likewise non-obvious from the prior art.